

289



The Mysore Gazette.

Vol. 57

PUBLISHED BY AUTHORITY.

[No. 17.]

BANGALORE, THURSDAY, APRIL 27, 1922.

PART III.

Legislative Measures and Rules thereunder.

NOTIFICATIONS

No. 309—L. C., dated 4th March 1922.

Under Rule 40 of the Rules for the conduct of business of the Mysore Legislative Council, the following Report of the Select Committee on the Bill further to amend the Mysore Municipal Regulation, VI of 1906, is published for general information with the Bill as amended by them.

By Order,
C. ABDUL GHANI,
Secretary, Mysore Legislative Council.

REPORT OF THE SELECT COMMITTEE APPOINTED TO CONSIDER THE BILL FURTHER TO AMEND THE MYSORE MUNICIPAL REGULATION, 1906.

We, the undersigned members of the Select Committee to which the Bill further to amend the Mysore Municipal Regulation, 1906, was referred, have the honour to submit the following report:—

Clause 1.—In connection with this clause, we have considered the communication of Mr. B. Sreenivasa Iyengar of Anekal, who has suggested that the clause as it stands at present may give rise to the possibility of there being no council on the date of a general election. To make it clear, we recommend that the

clause may be worded on the lines of Section 50 (1), (v) of the Madras District Municipalities Act, 1920 as follows :—

"Who is already a Councillor whose term of office as such will not expire before his fresh election or appointment can take effect" and that it may go as a separate sub-clause of sub-section (i) of Section 15.

Clause 2.—We consider that instead of making amendments in paragraphs (a) and (b) and in the explanation, it will serve the purpose if, in the explanation, the words "or sanitary" be inserted after the word "Medical".

Clause 4.—Sub-clauses (1) and (2).—We recommend that the new sub-clause (iiA) may be made sub-clause (iii) the present sub-clause (iii) being renumbered as sub-clause (iv). The additional words proposed in sub-clause (2) may go in, as sub-clause (v) of clause (b).

Sub-clause 3.—In the place of the deleted clause (c) we recommend that the following clause be substituted with a view to provide for the framing of bye-laws in respect of grant of licenses for the establishment of factories and the use of sirens under clauses 11 and 12 of the Bill.

(c) prescribing the conditions, on, or subject to which and the circumstances, in and the areas or localities in respect of which licenses may be granted, refused, suspended or withdrawn for the establishment in any premises of any factory, workshop or work place in which it is intended that steam, water, electrical or other mechanical power shall be employed or for the use of whistles, trumpets, operated by steam, mechanical means or electricity in factories or other places for the purposes of summoning or dismissing workmen or persons employed.

Sub-clause 4.—We consider that provision should also be made for framing bye-laws for the construction and use as well as disposal of houses for the poor. We therefore suggest that clause (oo) may be amended as follows :—

"(oo) regulating the conditions for the construction, use and disposal of houses intended for the poor"

Sub-clause 6.—We suggest that it may be altered as follows :—

"and prescribing a time limit for the erection of buildings and it will include the construction of new and alteration of old buildings."

Sub-clause 7.—We consider that the word "erection" would be more appropriate than "construction," and the words in accordance with the provisions of Section 95, A—may be omitted as being unnecessary.

Sub-clause 8.—This is also unnecessary and may be omitted.

Sub-clause 9.—We consider that it will not be to any advantage for the Municipal Council to frame bye-laws for the prevention of double riding on bicycles and such other acts prejudicial to public safety. It seems to be more appropriate and convenient to take power in that respect under the Police Regulation. We therefore recommend that this sub-clause be omitted.

Clause 5.—We consider that Section 51, is not the appropriate place for making this provision. Further, we think that such a provision as this is not called for, as it is a matter for agreement between Government and the holder of an alienated village and any municipality constituted in such an alienated village may be from the operation of this Regulation, under Section 187.

Clause 6.—We are of opinion that the following words may be substituted with advantage for the words "economic work" occurring in line 2 of this clause :—

"any specific work or purpose". The words "or purpose" may also be added after the word "work" in line 3.

Clause 7.—We consider that this amendment is unnecessary as there are already sufficient powers under Section 53A, for borrowing for the purposes contemplated in clause (bb) of Section 56.

Clause 8. — It will not be sufficient if power is taken only for constructing houses. It is necessary that they ought to be maintained properly till they are disposed of. We therefore propose that the clause be amended as follows: —

(bb). Constructing and maintaining where necessary suitable sanitary houses for the habitation of the poor of houses.

Clause 9. — We consider that this new section providing for power to resume sites not built upon ought to come after the provisions regarding power to regulate buildings. The section will have to go in before sub-heading 3 in Chapter IX, as Section 98A, under a new sub-heading "(2A) Power to resume sites, etc."

We consider that in sub-section (1) of the section provision should be made so that the encumbrances created before the passing of this Regulation should not be affected by the sale of the land resumed without, however, any right to priority. We accordingly propose that the second sentence of paragraph 1 of sub-section (1) of Section 98A be amended as follows:

"On such resumption the land together with the building if any, thereon shall vest in the Municipal Council free of all encumbrances (excepting those if any in favour of Government and those created before the passing of this Regulation, the latter not having any priority over Government or Municipal claims) created by the owner or any person claiming from him subject, however, to the proviso that such owner or person claiming from him, or the mortgagee, as the case may be, shall be entitled to payment from the Municipal funds of the amount realised by the Municipal Council from the disposal less any charges incurred for such disposal and resumption."

In paragraph (2) of sub-section (1) we propose that for the words "1st January 1921" the words "the date of passing of this Regulation" be substituted and the words "after the passing of this Regulation" be added between the words "fixed" and "for" in the same paragraph.

We consider that provision should be made for prescribing conditions of resumption and disposal of sites in order that the exercise of the powers may not cause any hardship in individual cases. We therefore suggest the addition of the following words after the word "Government" at the end of sub-section (2) of section 98A: — "subject to such conditions as may be prescribed by Government in this behalf."

Clause 10. — We propose certain verbal alterations in this clause. As amended it will be as follows:

95 A. The Municipal Council may require that any building used or intended to be used, as a grain shop or grain store shall be erected so as to render such building rat proof and may for this purpose prescribe the plan and the design to be adopted and the materials to be used for such building.

Provided that the provisions of this section shall be enforceable only within such areas as may be notified by the Municipal Council from time to time, with the previous approval of Government.

Clause 11. — We consider that the proper place for bringing in this new section is under the heading of "Nuisances from certain trades and occupations" in Chapter IX and we accordingly suggest that this new section may go in as Section 151A, after Section 151.

Mr. B. V. Ramaswamy Chetty raised, at the last meeting of the Legislative Council, a contention that the power to grant licenses under clauses 11 and 12 should be vested in the Municipal Council and not in the President. We agree with Mr. Ramaswamy Chetty in this respect and suggest that the words "Municipal Council" be substituted wherever the word "President" occurs.

We consider it necessary that a penalty should be attached to cases of contravention of the rule contained in this section, and so we propose the addition of a new clause as sub-clause (3)

of Section 151A as follows:—

(3) Whoever establishes in any premises, any factory, workshop or work place as aforesaid without or after the refusal of such permission, or in contravention of the terms of any by-laws framed in this behalf, shall be punished with fine which may extend to two hundred rupees.

Clause 12.—We consider that this clause also should come under the heading of nuisance, and the new section proposed may go in as Section 151B. We recommend that the phraseology of Section 151A of the Bombay District Municipalities Act, 1901, may be adopted as the provision is based on that section.

As altered the clause will be as follows:—

151B. (1) No person shall use or employ in any factory, or any other place any whistle or trumpet operated by steam, mechanical means or electricity for the purpose of summoning or dismissing workmen or persons employed except under and in accordance with the conditions of a license from the Municipal Council.

(2) The Municipal Council may grant such license subject to such conditions as they may deem fit and may at any time withdraw such license on giving one month's notice to the licensee.

Provided that when the licensee has contravened any of the conditions of the license, the license may be withdrawn without any such notice.

(3) Whoever uses or employs any such whistle or trumpet as aforesaid without or in contravention of any of the conditions of, or after the withdrawal of such license, shall be punished with fine which may extend to fifty rupees.

Clause 13.—In paragraph 2 of the Section 165A, we suggest that the word "also" be inserted between the words "which" and "falls."

Clause 14.—We consider that it is desirable to take powers generally under Section 180A to restrict the powers of Deputy Commissioners in respect of Municipal Councils other than City Municipal Councils, so that such restriction may be applied to cases of individual Municipal Councils as occasion may require. We accordingly suggest the substitution of the words "or other Municipal Councils specially exempted under the special orders of Government" for the words "and the Sringeri Municipal Council," in the said section.

We recommend that the Bill as amended be published in the Gazette and passed.

Mr. P. RAGHAVENDRA RAO
Mr. K. MATHAN
Mr. S. DORASWAMY IYER
Mr. RAMACHENDRA RAO
Mr. C. RANGIENGARAYAN
Mr. C. RANGIENGARAYAN

Note.—Mr. M. SUBBIAH, was unable to be present at the meeting.

Mr. H. V. RANGASWAMI IYER, who was present at the meeting of the Municipal Council on the 12th inst., moved a resolution that the power to grant licenses for the use of whistles or trumpets should be vested in the Municipal Council and not in the Deputy Commissioner. He suggested that the words "or other Municipal Councils specially exempted under the special orders of Government" be substituted for the words "and the Sringeri Municipal Council" in the said section.

A Bill further to amend the Mysore Municipal Regulation, VI, of 1906, as amended by the Select Committee.

(The portions within square brackets indicate the omissions by the select Committee and those printed in italics indicate the amendments introduced by the Select Committee.)

Whereas it is expedient further to amend the Mysore Municipal Regulation, 1906, His Highness the Maharaja is pleased to enact as follows:—

1. [In clause (e) of sub-section (1) of Section 15 of the Regulation, after the words "who is a" the following words shall be inserted:— "Councillor at the date of election or a"]

Amendment of Sec. 15.

After clause (f) of sub-section (1) of Sec. 15 of the Regulation the following new clause shall be added:—

(g) *who is already a Councillor whose term of office as such will not expire before his fresh election or appointment, can take effect.*

2. [(1) in paragraph (a) of sub-section (14) of Section 26 of the Regulation, for the words "The Executive Engineer, Educational Inspector and the Civil Surgeon in a district", the words "The Executive Engineer, Educational Inspector and the Health Officer in a district or the District Medical Officer" shall be substituted.

Amendment of S. 26.

(2) In paragraph (b) of the same sub-section for the words "Civil Surgeon", the words "The District Medical Officer" shall be substituted.

(3) In the explanation at the end of Section 26, for the word "Civil Surgeon" the words "The District Medical Officer" shall be substituted. *In the explanation at the end of Section 26, the words "or Sanitary" shall be inserted after the word "Medical."*

3. In Section 31, for the word "one-third" after the words "shall not exceed" the word "one-half" shall be substituted.

Amendment of Sec. 31.

4. (1) After sub-clause (ii) of clause (b) under sub-section (1) of Section 48, the following new sub-clause shall be inserted:—

Amendment of Sec. 48.

["(iiA) (iii) as a hotel, bakery, sweetmeat shop or otherwise for the preparation, manufacture or sale of articles intended for human food or drink", the present sub-clause (iii) being re-numbered as sub-clause (iv).

(2) [In] After sub-clause (iii) (iv) of clause (b) under the same sub-section the following new sub-clause shall be [inserted], added:—

(v) or for any other purpose for which the taking out of a license is or may be prescribed.

(3) For Clause (c) under the same sub-section the following shall be [cancelled] substituted:—

"Prescribing the conditions on or subject to which, and the circumstances in and the areas or localities in respect of which, licenses may be granted, refused, suspended or withdrawn for the establishment in any premises, of any factory, workshop or work-place in which it is intended that steam, water, electrical or other mechanical power shall be employed, or for the use of whistles, trumpets, operated by steam, mechanical means or electricity in factories or other places for the purposes of summoning or dismissing workmen or persons employed."

(4) In sub-section (1) of the same section the following shall be inserted between clauses (o) and (p):—

"(oo) regulating the conditions for the construction, use and disposal of houses [constructed] intended for the [use of the] poor."

(5) In clause (p) of the same sub-section, between the words "foundations" and "roofs" the word "floors" shall be inserted.

(6) At the end of the same clause after the semicolon, the following words shall be added:—
and prescribing a time limit for the [construction] erection of [new] buildings [or the alteration of the old]

(7) After clause (p) the following new clause shall be added:—

(pp), regulating the [construction] erection of grain shops and grain stores [in accordance with the provisions of Section 95A]

(8) In clause (r) of the same sub-section the words "and for rendering the buildings rat-proof" shall be added after the words "for securing a free circulation of air."

(9) After clause (v) of the same sub-section the following new clause shall be added:

(vv) regulating traffic in streets

Addition of proviso to Sec. 51.

[5. In Section 51 of the Regulation the following proviso shall be added after proviso (b)

"(c) in the case of an alienated village, the rights, if any, of holder of such village, to the enjoyment of any tax or other item of revenue shall be regulated from time to time by the orders of the Government"

Addition of a proviso to Sec. 52.

[6] 5. In Section 52 after the first paragraph the following additional proviso shall be inserted:—

"Provided that any funds granted to the Municipal Council by the Government for [economic] any specific work or purpose shall be applied exclusively for such work or purpose and in accordance with such instructions as the Government may lay down either generally or specifically in this behalf"

Amendment of Sec. 53A.

[7] At the end of Section 53A, after the word "Regulation" the words "or for the purpose mentioned in clause (bb) of Section 56" shall be added.

Addition of a new clause to Sec. 56.

[8] 6. The following new clause shall be added after clause (b) under Section 56 of the Regulation:

(bb) Constructing and maintaining where necessary [for the habitation of the poor] suitable sanitary houses for the habitation of the poor

Addition of a new Sec. [91] 98A.

[9] 7. After Section [91] 98 and under [the] a new sub-heading ["(2) powers to regulate buildings, etc."] "(2A) Powers to resume sites, etc." the following new section shall be inserted as Section [91] 98A, namely:—

Resumption of site not built upon, within the prescribed time.

"[91A.] 98A (1) Where the term prescribed or extended, as the case may be, under any bye-law framed by a Municipal Council in this behalf for the construction of a building on a vacant land has elapsed, and no substantial progress has been made in the construction of the building according to the approved plan by the grantee, purchaser or transferee of the site, it shall be competent for the Municipal Council to resume the site with any building existing thereon after giving the owner of the land, or if the owner cannot be found or ascertained, the person in possession, such notice as the Municipal Council may fix in this behalf, and to dispose of the same by public auction or otherwise for building purposes, after publication of a notice to that effect in the official Gazette not less than three months prior to the date fixed for the sale. On such resumption, the land together with the building, if any, thereon, shall vest in the Municipal Council free of all encumbrances (excepting those, if any, in favour of Government and those created before the passing of this Regulation, the latter not having any priority over Government or Municipal claims, created by the owner or any person claiming from him, subject, however, to the proviso that such owner or person claiming from him or the mortgagee, as the case may be, shall be entitled to payment from the Municipal Funds of the amount realised by the Municipal Council from the disposal, less any charges incurred for such disposal and resumption.

Provided that, where the vacant land had been alienated by the Municipal Council prior to [1st January 1921] the date of

passing this Regulation, the Municipal Council shall not take action under this section unless three years shall have elapsed from the date fixed after the passing of this Regulation for the completion of the building.

Provided also that, where a vacant land is not in possession of any one and the Municipal Council is satisfied after enquiry that the owner cannot be found, the notice to the owner or the person in possession may be dispensed with.

(2) The powers conferred under sub-section (1) shall be exercised only by such Municipal Councils as may be specially authorised by Government subject to such conditions as may be prescribed by Government in this behalf.

(3) Where no taxes have been paid on a vacant land for a period of six years, and the Municipal Council is satisfied after enquiry that the owner cannot be found, it shall be competent to the Municipal Council to sell the land by public auction or otherwise for building purposes after publication of a notice to that effect in the official Gazette not less than three months prior to the date fixed for the sale. On such sale, the land together with the building, if any, thereon shall vest in the purchaser or transferred free of all encumbrances (excepting those, if any, in favour of Government or other Municipal Council) created by the owner subject, however, to the proviso that such owner or person claiming from him shall be entitled to payment from the Municipal Funds of the amount realised from the Municipal Council from the disposal less the taxes and other charges incurred for such disposal.

10. After Section 95, the following new section shall be added:

"95A. The Municipal Council may require that any building, used or intended to be used as a grain shop or grain store or proposed to be constructed for such purpose, shall be [reconstructed, altered or] erected, [as the case may be] so as to [prevent the infestation of rats in or about] render such building rat-proof and may for this purpose prescribe the plan and the design to be adopted and [the nature and quality of] the materials to be used for such building."

Provided that the provisions of this section shall be enforceable only [in] within such areas as may be notified by the [Government in the official Gazette] Municipal Council from time to time with the previous approval of Government.

11. After Section [137] 151 the following new section shall be inserted as Section [137A] 151A:

[137A] 151A (1) No person shall newly establish in any premises, any factory, workshop or workplace in which it is intended that steam, water, electrical or other mechanical power shall be employed without the previous written permission of the [President] Municipal Council.

(2) The [President] Municipal Council may refuse to give such permission if [he] it be of opinion that the establishment of such factory, workshop or workplace in the proposed position is objectionable by reason of the density of the population in the neighbourhood thereof, or will be a nuisance to the inhabitants of the neighbourhood or in any other manner contravenes the terms of any bye-laws framed in this behalf.

(3) "Whoever establishes in any premises any factory, workshop or workplace as aforesaid without or after the refusal of such permission, or in contravention of the terms of any bye-laws framed in this behalf, shall be punished with fine which may extend to two hundred rupees."

[12] 10. After Section [138] 151A the following new section shall be inserted:—

[138 A. (1) No person shall without a license granted by the President use or employ in any factory, or any other place, any siren, whistle or trumpet operated by steam, mechanical

By Municipal Councils specially authorised.

Sale of vacant land on which taxes have not been paid for six years.

Addition of a new Section 95 A.

Rat-proof building for grain shop or grain store.

Factories in crowded localities.

Addition of a new Sec. [138 A] 151 B. Use of siren or whistle for summoning or dismissing workmen.

power or electricity for the purpose of summoning or dismissing workmen or persons employed.

Whoever uses or employs any such siren, whistle or trumpet as aforesaid without a license or in contravention of any of the conditions of such license shall be punished with fine which may extend to fifty rupees.

151B. (1) No person shall use or employ in any factory, or any other place any whistle or trumpet operated by steam, mechanical means or electricity for the purpose of summoning or dismissing workmen or persons employed except under and in accordance with the conditions of a license from the Municipal Council.

(2) The Municipal Council may grant such license subject to such conditions as they may deem fit and may at any time withdraw such license on giving one month's notice to the licensee.

Provided that where the licensee has contravened any of the conditions of the license, the license may be withdrawn without any such notice.

(3) Whoever uses or employs any such whistle or trumpet as aforesaid without or in contravention of any of the conditions of, or after the withdrawal of, such license, shall be punished with fine which may extend to fifty rupees.

[13.] 11. After Section 165 of the Regulation, the following new section shall be added as Section 165A:

165A. (1) The Government may empower any Municipal Council, or its President, Vice-President or Chief Officer to accept from any person, against whom, a reasonable suspicion exists that he has committed an offence against this Regulation or any rule or bye-law thereunder, a sum of money by way of composition for such offence.

Provided that, no offence which also falls under any provisions of the Indian Penal Code, shall be compounded otherwise than in accordance with the provisions of Section 345 of the Code of Criminal Procedure.

(2) On payment of such sum of money, such person, if in custody, shall be discharged and no further proceedings shall be taken against him in regard to the offence or alleged offence so compounded.

(3) Sums paid by way of composition under this section shall be credited to the Municipal Fund.

(4) The power under sub-section (1) to compound offences may be given, whether generally under this Regulation and the rules and bye-laws thereunder, or particularly in regard only to individual offences of a specified class and may at any time be withdrawn by the Government.

(5) Any sum of money accepted as composition under sub-section (1) shall not exceed the amount of fine fixed for the offence in the Regulation or in any rule or bye-law thereunder or rupees fifty, whichever is less.

(6) The Government may make rules to regulate the proceedings of persons empowered to compound offences under this section.

[14.] 12. In Section 180-A of the Regulation, the words "and Sringeri Municipal Council" "or other Municipal Councils specially exempted under the special orders of Government" shall be added after the words "City Municipal Council".

Amendment of Sec. 151B.

Amendment of Sec. 151B.

Addition of a new Sec. 165A.

Power to compound offences.

Amendment of Sec. 165A.

Amendment of Sec. 165A.

Amendment of Sec. 165A.

Amendment of Sec. 165A.

Amendment of Sec. 165A.

Amendment of Sec. 165A.

Amendment of Sec. 165A.

Amendment of Sec. 165A.

Amendment of Sec. 165A.

Amendment of Sec. 165A.

Amendment of Sec. 165A.

Amendment of Sec. 165A.

Amendment of Sec. 165A.

Amendment of Sec. 165A.

Amendment of Sec. 165A.

Amendment of Sec. 165A.

Amendment of Sec. 165A.

Amendment of Sec. 165A.